

No. 20-1248

UNITED STATES COURT OF APPEALS
FOR THE SIXTH CIRCUIT

FILED
Apr 20, 2020
DEBORAH S. HUNT, Clerk

In re: UNIVERSITY OF MICHIGAN, et al.,)
)
Petitioners.)

O R D E R

Before: SILER, DAUGHTREY, and GIBBONS, Circuit Judges.

The University of Michigan, its Board of Regents, Pamela Heatlie, Robert Sellers, Martin Philbert, Erik Wessel, Laura Blake Jones, E. Royster Harper, Suzanne McFadden, and Paul Robinson (collectively, “the University”) petition for a writ of mandamus, asking us to compel the district court to: permit the University to move forward with a student-conduct hearing of Plaintiff John Doe; and adhere to a prior order of this court and immediately reconsider Doe’s due-process claim in light of a new University policy. Alternatively, the University asks us to find that the district court lacks jurisdiction over Doe’s due-process claim and order dismissal of that claim to the extent it seeks injunctive relief. Further, the University asks that we assign the underlying proceeding to a different district court judge. Separately, the University moves to stay the district court’s injunction preventing it from proceeding with its investigation and adjudication of Doe’s conduct if we are unable to promptly grant mandamus relief. Doe opposes a stay and moves for leave to file excess pages in his response. After the University sought relief in this court, the district court issued an order addressing pending motions below that effectively mooted their request for relief. Consequently, the University now moves to voluntarily dismiss the petition.

The clerk may dismiss an appeal voluntarily if the parties file a signed dismissal agreement specifying how costs are to be paid. Fed. R. App. P. 42(b). The clerk may also

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dismiss an appeal on an appellant's motion on terms fixed by the court. *Id.* The University's motion does not indicate agreement on how costs are to be paid.

Courts "have broad discretion to grant voluntary motions to dismiss." *Am. Auto. Mfrs. Ass'n v. Comm'r, Mass. Dep't of Env'tl. Prot.*, 31 F.3d 18, 22 (1st Cir. 1994). And courts generally grant motions to voluntarily dismiss, *see Twp. of Benton v. Cty. of Berrien*, 570 F.2d 114, 118–19 (6th Cir. 1978), provided that circumstances do not dictate otherwise. We see no reason to depart from this course in this matter.

The motion to voluntarily dismiss is **GRANTED**. Costs are assigned to the University. *See* Fed. R. App. P. 39(a)(1). The mandamus petition is **DISMISSED AS MOOT**. The motions to stay and to exceed the page limit are **DENIED AS MOOT**.

ENTERED BY ORDER OF THE COURT



Deborah S. Hunt, Clerk

**UNITED STATES COURT OF APPEALS
FOR THE SIXTH CIRCUIT**

Deborah S. Hunt
Clerk

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Re: Case No. 20-1248, *In re: University of Michigan, et al*
Originating Case No. : 2:18-cv-11776

Dear Counsel,

The Court issued the enclosed Order today in this case.

Sincerely yours,

s/Jill E Colyer
Case Manager
Direct Dial No. 513-564-7024

cc: Mr. Andrew J. Clopton
Ms. Elizabeth Ann Marzotto Taylor
Ms. Amanda Kelly Rice
Mr. David J. Weaver

Enclosure

No mandate to issue